

Laura Dorbeck

Subject: FW: Neighbour Representation – Objection to Proposed Development at 52
Tottenham Street - FAO Laura Dorbeck
Attachments: 23.074.41.day_sun - 30.3.23.pdf

From: Paul Collins (T2 International) [REDACTED]
Sent: 31 March 2023 18:43

Subject: RE: Neighbour Representation – Objection to Proposed Development at 52 Tottenham Street - FAO Laura Dorbeck

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Dear Ms Dorbeck,

I write further to our earlier correspondence regarding the proposed development at the property neighbouring our 30 Cleveland Street headquarters, and following the receipt of our own advice regarding daylight and sunlight impacts on our building and in particular those areas we rely upon to provide for amenity and the well-being of our employees.

In summary, it is clear that the daylight and sunlight impacts would be overwhelmingly and unacceptably harmful.

Our roof terrace on the fourth floor would go from receiving sunlight year-round to a point where there would be no time across an entire year where it received the BRE minimum level of sunlight. The harm then caused to the fifth floor terrace would see this area overshadowed across the summer months where it now enjoys good levels of sunlight.

This demonstrable harm is a clear policy breach as set out further below. This impact has not been taken into consideration in the decision-making process, being a clear circumstance where the acceptance of this level of harm would not be in accordance with the development plan.

Further, there are no public benefits or other material considerations which would outweigh or balance against this harm. Instead, such harmful impacts are evidence that the proposal at 52 Tottenham Street is overdevelopment of the site.

Set out below is a summary of the policy context regarding the development plan and its policies which would protect amenity, followed by our comments on the daylight and sunlight evidence provided by the applicant of the proposed neighbouring development, and then a summary of our own daylight and sunlight evidence with the full analysis attached.

We would ask that this be taken into consideration when the application is brought before planning committee and that the recommendation reflect the wholly unacceptable level of harm that would be caused to our building, contrary to the policies of the development plan.

Policy Context

It is suggested in the applicant's daylight and sunlight analysis that there is neither a basis under LB Camden policy nor a basis under the BRE Guidelines to consider the amenity of non-residential neighbours with regards to daylight and sunlight impacts.

In the Camden Planning Guidance document concerning amenity in the borough, its paragraph 1.3 states that standards of amenity are major factors in the health and quality of life of the borough's residents as well as its workers, and that such amenity is fundamental to Camden's attractiveness and success.

With regards to daylight and sunlight, this is amplified within the relevant section where para 3.7 sets out that daylight and sunlight reports may also be required to evidence impacts on non-residential uses that are particularly sensitive to the loss of light.

This same document reiterates in para 3.1 that the Council aims to protect the quality of life of occupiers as well as neighbours through Local Plan Policy A1 (Managing the Impact of Development) which seeks to ensure that development does not harm amenity, including harm to daylight and sunlight.

Policy A1 itself is clear in its applying to both residential and non-residential uses in the borough, outlining the Council's commitment to protecting the quality of life of occupiers and neighbours. Clause a) of the policy states that the Council will "*seek to ensure that the amenity of communities, occupiers and neighbours is protected*" going on to add that factors in this consideration include sunlight, daylight and overshadowing.

The Camden Planning Guidance and Local Plan also make reference to the BRE Guidelines in assessing daylight and sunlight. The BRE Guide makes allowance for the assessment of daylight and sunlight impacts, alongside specific references as to where this would include non-residential uses. These are set out in full in the attached daylight and sunlight advice, while I draw attention to Section 2.2.2 of the Guide which states "*the guidelines may also be applied to any non-domestic building where the occupants have a reasonable expectation of daylight*".

As such, both local planning policy and the BRE Guide make clear that their seeking to protect amenity does not solely apply to considering the impacts on nearby windows to residential properties. Local planning policy and guidance recognises that amenity for all those within Camden should be protected, and the BRE Guide recognises that non-residential uses have a reasonable expectation for daylight and sunlight.

Deficiencies in Applicant's Daylight and Sunlight Analysis

It must be acknowledged that there are fundamental deficiencies in the daylight and sunlight analysis submitted by the applicant as dated 1st December 2022 and 13th February 2023.

The analysis has incorrectly identified a sixth floor plant area as a roof terrace. This is an error which goes to the heart of its conclusions, as this plant area – being at a higher level than the roof terraces – inevitably is the least impacted and best performing of the areas assessed. When shown alongside the actual roof terraces, the analysis appears to show that this plant area would still perform well and the building would therefore retain some amenity space which would enjoy an appropriate level of sunlight. This is not the case, as this area is a rooftop plant area, and as such its inclusion is incorrect and misleading.

The applicant's daylight and sunlight assessments have also included measurement of windows at our building in the rear elevation. This assessment is equally flawed as it only measures those windows serving a core while ignoring other windows in the rear elevation which serve office spaces, breakout areas and our kitchen area. The windows measured open on to a lightwell at the rear of our building, and this lightwell would be severely compromised by the development. Additional analysis undertaken has then assessed only those windows serving a stair core, and as such only those windows which would serve areas which would typically have a lower expectation for receiving natural light. We do not accept that this should be considered acceptable in this case, and the daylight and sunlight analysis submitted by the applicant is incomplete and misleading where it does not consider the full impacts on the windows served by the lightwell at the rear of our building.

It should also be noted that the analysis concludes that the harm to the roof terraces through increased overshadowing means the development does not pass a BRE compliant assessment. While the submitted material includes further commentary, none of this is supported by either guidance provided by the BRE or local planning policy on the matter of daylight and sunlight. Indeed, in its appendices it includes a measurement taken on the longest day of the year which shows that even on this day, which features the most sunlight, the development would still increase overshadowing of the roof terrace amenity spaces to the point of failure – the fourth floor roof terrace going from over half of its area receiving two hours of sunlight to zero.

Attached Daylight and Sunlight Analysis

As noted previously, the full daylight and sunlight analysis we have received is submitted alongside this representation. For reference a table is provided below detailing the level of harm caused to our roof terrace amenity spaces:

Overshadowing assessment for 30 Cleveland Street			
Floor	Exist.	Prop.	Change
21-Mar			
Fourth	0%	0%	-
Fifth	39%	0%	- 39%
21-Apr			
Fourth	14%	0%	- 14%
Fifth	66%	0%	- 66%
21-May			
Fourth	35%	0%	- 35%
Fifth	86%	11%	- 75%
21-Jun			
Fourth	41%	0%	- 41%
Fifth	94%	26%	- 68%
21-Jul			
Fourth	35%	0%	- 35%
Fifth	86%	12%	- 74%
21-Aug			
Fourth	14%	0%	- 14%
Fifth	66%	0%	- 66%

This level of reduction across the summer months, and as such the entire year, is unacceptable.

The above is also a stark demonstration of the harm caused to the fourth floor terrace – which sees the area receiving a good amount of sunlight in April, May, June, July, and August reduced to no area receiving two hours of sunlight. Furthermore, the fifth floor terrace would be harmed so that only a minority of its area would receive adequate sunlight across the April to August period, whereas it receives good sunlight in its existing condition.

The analysis is provided in full in the attached documents, showing the full extent of the overwhelming harm caused to our roof terraces.

Conclusion

In both the applicant's daylight and sunlight analysis and that which we have received, the harm caused to our roof terraces in terms of light is overwhelming. The substantial harm to our amenity is such that all year round, and notably

across the summer months, our roof terraces would go from receiving a good amount of sunlight to being overshadowed across the majority of their area.

This demonstrable harm is a clear breach of development plan policy. Both Camden Planning Guidance and Local Plan Policy A1 seek to ensure that this level of harm is not caused to neighbouring buildings – be they offices or residences. Accepting this level of harm where there are no other considerations to do so would not be in accordance with the development plan.

With regards to other considerations, there are no public benefits delivered by the proposal or other material considerations which would outweigh this clear and demonstrable harm.

This must be fully considered in the determination of this proposal, not least as this evidence has not yet been brought before the planning committee. Indeed, we would ask that you confirm that the application would be brought back before full planning committee and we draw your attention again to the cases we had raised previously which concerned judicial review where planning committee members had been misled as to daylight and sunlight impacts when reaching a planning decision (Rainbird, R v. London Borough of Tower Hamlets [2018], EWHC 657).

In applying the planning balance, the above demonstrates and evidences that the only recommendation that can be made is that the application be refused, in accordance with the development plan and its policies seeking to protect the amenity of the residents and occupiers of Camden. This is with particular regard to Paragraphs 12 and 47 of the National Planning Policy Framework which require decisions to be made in accordance with the development plan unless material considerations indicate otherwise. In this circumstance, no material consideration would indicate a decision should be made which was not in accordance with the development plan.

Further to the above and distinct from this objection we reserve the right to legally challenge the grant of consent if the proposal is unchanged, and particularly were the application to be decided without being brought back before planning committee, on the basis of inadequate consultation practice and misleading daylight and sunlight analysis supporting the application, as well as any other matter of which we may become aware.

Yours sincerely,

Paul



Paul Collins
VP & Counsel
Take Two Interactive Software Europe Limited
Take Two House, 30 Cleveland Street, London, W1T 4JD



From: Paul Collins (T2 International)
Sent: Monday, February 27, 2023 6:16 PM

[REDACTED]

Subject: RE: Neighbour Representation – Objection to Proposed Development at 52 Tottenham Street - FAO Laura Dorbeck

Dear Laura,

Thank you again for bringing to our attention the latest daylight and sunlight information submitted by the applicant. Having reviewed the documents, and discussed them briefly with our advisors, it is clear that this information is flawed in its methodology and in its assumptions, although even with this, it plainly demonstrates the unacceptable harm that our premises would suffer as a result of the proposed development.

I am sure you will agree from your initial review of the daylight and sunlight analysis of December 2022 and February 2023 that the errors made in the submitted information are so significant as to leave the analysis fundamentally flawed. In the analysis and testing of neighbouring windows, only those window openings serving an internal stair core have been assessed, while the testing related to amenity spaces includes a rooftop plant enclosure as an amenity space at the same time as showing this area as performing the best of the three spaces tested in its appendices. Ultimately, this additional information means the daylight and sunlight analysis remains misleading and inaccurate. We are seeking specialist advice as to the daylight and sunlight impacts on our building and must be given time to prepare a full response to this latest information.

On this basis, the application cannot be brought before Planning Committee – likely until correct and robust daylight and sunlight information has been provided by the applicant, and at least until we have had the opportunity to provide our full response to the only recently published analysis. As raised in our previous correspondence, reliance on such flawed information relates directly to the judgement made in *Rainbird, R v. London Borough of Tower Hamlets* (2018) where a planning permission was quashed as the decision-making Committee were misled regarding daylight and sunlight impacts on neighbouring properties.

I would be grateful if you could confirm that no further action will be taken towards a decision being made for this application until we have provided our substantive response.

Kind regards,

Paul



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